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EMINENT DOMAIN—RAILROAD PROPERTY NOT TO BE CONDEMNED FOR STREET.—The city sought in the State court to condemn certain portions of railroad property adjoining three streets, unconnected and remote from each other, the purpose being to secure control of the railroad property. The property sought to be condemned was not in actual use, but was necessary for the railroad's use in the future. The railroad property was in the hands of a receiver appointed by a federal court. The city based its claim mainly upon the fact that the railroad had ceased to operate and had forfeited its franchise under the terms thereof. *Held*, the railroad property cannot be condemned by the city. *In re 221st Street in City of New York*, 190 N. Y. S. 234 (1921).

While the State legislature may constitutionally authorize the taking of property devoted to a public use for a different public use, it is the settled rule that a general delegation of the power of eminent domain to a municipal corporation does not authorize the taking of property already devoted to a public use, unless it can be shown clearly that the legislature intended such a taking. *Chicago, etc., R. Co. v. Williams*, 148 Fed. 442 (1906); *Plainfield-Union Water Co. v. Inhabitants of City of Plainfield*, 83 N. J. Law 332, 85 Atl. 321 (1912); *In re Saratoga Ave. In City of New York*, 226 N. Y. 128, 123 N. E. 197 (1919).

The use of property by a railroad is a use for a public purpose, and it is not essential that the property shall be actually in use if it will be needed for its purposes within a reasonable time in the future. *In re Application of Staten Island, etc., R. Co.*, 103 N. Y. 251, 8 N. E. 548 (1886); *In re East 161st Street In City of New York*, 52 Misc. Rep. 596, 102 N. Y. S. 500 (1907); *In re Seneca Ave. In City of New York*, 98 Misc. Rep. 712, 163 N. Y. S. 503 (1917).

INTOXICATING LIQUORS—PROPERTY IN INTOXICATING LIQUORS—ONE WHO ENTERS BUILDING WITH INTENT TO TAKE INTOXICATING LIQUOR CANNOT BE CONVICTED OF BURGLARY.—Certain liquor containing alcohol in excess of the quantity permitted by law was manufactured for beverage purposes subsequently to the passage of the National Prohibition Act. The defendant, with the intent to steal the liquor, entered an outhouse, wherein it was stored. To an information charging the crime of burglary with intent to steal intoxicating liquor, the defendant demurred on the ground that such liquor cannot in legal contemplation be property, inasmuch as there cannot be ownership thereof, in view of the National Prohibition Act. *Held*, demurrer sustained. *People v. Spencer* (Cal.), 201 Pac. 130 (1921).

As authority for the instant holding the case of *People v. Caridis*, 29 Cal. App. 166, 154 Pac. 1061 (1915) was cited. But it is to be noted that in that case, although a demurrer to the information charging the crime of grand larceny for the theft of a lottery ticket was sustained, the court states that had the charge been petit larceny in keeping with the intrinsic worth of the ticket the demurrer would not have been allowed. As further authority it is contended that a defendant who broke and entered a stable with intent to steal a dog, could not be indicted for